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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,039	11/14/2005	Peter Heeley	64751	6620
27975 7590 05/29/2009 ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A. 1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE P.O. BOX 3791 ORLANDO, FL 32802-3791				
			EXAMINER WILLIAMS, MARK A	
			ART UNIT 3673	PAPER NUMBER
			NOTIFICATION DATE 05/29/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

creganoa@addmg.com

Office Action Summary

Application No.

10/521,039

Applicant(s)

HEELEY ET AL.

Examiner

MARK A. WILLIAMS

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 16, in the phrase “to lock the handle against rotation”, it is unclear in the context of the claim language what other element of the invention is rotation of the handled is being prevented relative to. This is also the case is claims 29; and with the phrase “to prohibit turning of the handle and the latch spindle” of claim 34.

In claim 16 and 29, “allow the handle to turn *relatively to the latch spindle*” is unclear. It is unclear if this is intended to mean the handle turns relative to the latch spindle, or turns along with the latch spindle. For purpose of this Office action, it is assumed that the handle turns relative to (or about) the spindle.

In claim 16, it is unclear in the context of the claim language exactly which elements of the device “at one end of which” and “at the opposite end of which” refer to. This is also true in claim 29.

In claim 16, the phrase “at one end of which, the handle is engageable with the latch spindle for turning...” is indefinite, in that it would appear that handle is always engaged with the spindle, but this phrase suggest that it is not always engaged. This is also true in claim 29.

In claim 16, in the phrase “to prohibit turning of the spindle in the opening direction”, it is unclear in the context of the claim language what other element of the invention is turning of the spindle being prohibited relative to. This is also true in claim 29.

In claim 21, in the phrase “an arcuate groove along which the projecting end of the locking member moves...”, it is unclear if the projection moves within the groove or outside of the groove, in the context of the claim language.

In claim 34, it is not understood exactly what is meant by “a guide spaced from the locking position” in the context of the claim language.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 34-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaiser, US Patent 2,949,328. A locking mechanism for a latch mechanism having a latch spindle 50 turnable to move a latch bolt from a latching position, the locking mechanism comprising a rotatable handle 52 for fixing to an adjacent end of the latch spindle for turning the latch spindle; a locking member (62, 72) mounted on the handle; a retainer 81 associated and engageable with the locking member, in a locking position of the handle, to prohibit turning of the handle and the latch spindle; a guide 77 spaced from the locking position and delimiting an arc of movement of the locking member when the handle is turned from a rest position to move the latch bolt from its latching position; and an actuator 70 for operating the locking member to permit the handle to be turned from the rest position to the locking position and the locking member to be engageable with the retainer. The locking member is slidably mounted in the handle and is selectively controllable to be engaged with and disengaged from the retainer. A base plate 54 securable to a

door having the latch mechanism and mounting the retainer thereon; and wherein the handle is rotatably mounted in the base plate.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16-20, 24, 27, and 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaiser, US Patent 2,949,328, in view of Fann et al., US Patent 5,301,526.

Kaiser provides a locking mechanism for a latch mechanism having a latch spindle 50 turnable to move a latch bolt from its latching position, the locking mechanism comprising a rotatable handle 52 having a drive passageway therein for fitting to an adjacent end of the latch spindle; and a locking member (62, 72) mounted on the handle; and a retainer 89 associated and engageable with the locking member to lock the handle against rotation; as best understood, the drive passageway being configured to allow the handle to turn in opposite directions through a predetermined angle of movement, at one end of which, the handle is

engageable with the latch spindle for turning the latch spindle in an opening direction to move the latch bolt from its latching position and, at the opposite end of which, the handle is in a locking position in which the locking member is engageable with the retainer and the handle is engageable with the spindle to prohibit turning of the spindle in the opening direction. The locking member is slidably mounted in the handle and is selectively controllable to be engaged with and disengaged from the retainer. The locking member has a control device 70 projecting closely adjacent the handle in a convenient position for manual operation by a person gripping the handle, and the locking member is resiliently urged (via 61) towards a position in which it is engageable with the retainer. A guide 77 defining an arc of movement for the locking member when the handle is turned in the opening direction from its rest position. A spring device 34 biasing the handle to a rest position corresponding to the one end of the angle of movement defined by the drive passageway; the guide including a stop 73 engageable by the locking member to define the rest position and the retainer being disposed in spaced relation to the stop in the opposite direction to that in which the handle is turnable from its rest position to turn the latch spindle in the opening direction. A base plate 54 securable to a door having the latch mechanism and mounting the retainer thereon; and wherein the handle is rotatably mounted in the

base plate. A second handle 22 having a passageway therein for fitting to the end of the latch spindle opposite to that fitted with the locking member. An actuator 70 for operating the locking member to permit the handle to be turned from the rest position to the locking position and the locking member to be engageable with the retainer.

Kaiser provides the claimed invention except the drive passageway being configured to allow the handle to turn *relatively to the latch spindle* (see 112 rejection above). Fann discloses the general concept of a two part spindle, allowing relative rotation of a handle device to at least part of the spindle. Such an arrangement allows for a lock set to unlatch a deadbolt by rotating an inner knob without the need to operate a spindle-turning button. It would have been obvious to modify the device in this way, thereby meeting the claim limitation of allowing the handle to turn relative to the latch spindle, for purposes of allowing for the additional feature of unlatching a deadbolt by rotating the inner knob without the need to operate a spindle-turning button.

Allowable Subject Matter

7. Claims 21-23, 25, 26, and 28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments with respect to the claims of record have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

This action is non-final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK A. WILLIAMS whose telephone number is (571)272-7064. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter M. Cuomo/
Supervisory Patent Examiner, Art Unit 3673

/Mark A. Williams/
Examiner, Art Unit 3673